

raiser&kenniff  
ATTORNEYS AT LAW

Steven M. Raiser, Esq.  
Thomas A. Kenniff, Esq.  
Anthony J. Colleluori, Esq.  
James M. Ingoglia, Esq.  
E. Gordon Haesloop, Esq.  
Bruce R. Connolly, Esq.  
John F. Campbell, III, Esq.  
Ethan D. Irwin, Esq.  
Valerie K. Mitchell, Esq.

300 Old Country Road, Suite 351  
Mineola, New York 11501  
Tel. 516-742-7600 • Fax 516-742-7618

Of Counsel  
Emily Shaw Record, Esq.  
Laura A. Mintz, Esq.  
Khadija A. Misuraca, Esq.

October 11, 2016

Hon. Sandra Feuerstein  
United States Judge  
United States District Court  
Eastern District of New York  
Long Island Courthouse  
100 Federal Plaza  
Central Islip, NY 11722

Re: *Colvin v. Keen et al.*  
(13-cv-3595(SJF)(ARL))

Dear Judge Feuerstein:

I write to supplement the record with respect to the telephone status conference of September 16, 2016, among Your Honor, plaintiff's counsel, and Toni Logue, Esq., counsel for Defendants as we believe that the minute entry (ECF Document 112) does not sufficiently set forth a record of that proceeding.

Just before concluding the conference, Your Honor stated, she would be reconsidering the Defendants' pretrial memorandum. This statement was made immediately after Your Honor asked whether Plaintiff would accept Defendants' last settlement offer and the undersigned counsel for Plaintiff replied in the negative. Immediately after making the statement about reconsidering the Defendants' pretrial memorandum, Your Honor ended the conference.

Had counsel for Plaintiff been aware that Your Honor intended to treat Defendants' pretrial memorandum as a motion for reconsideration, we would certainly have requested the opportunity to provide additional briefing. Your Honor's September 28, 2016, Opinion and Order (ECF Document 113), amounts to a sua sponte reconsideration of an Order entered on January 19, 2016 (ECF Document 81) based on a memorandum submitted more than seven months later, on August 29, 2016 (ECF Document 105). Local Civil Rule 6.3 governs the timing and briefing of motions for reconsideration, but its provisions were not applied in reaching the September 28, 2016, Opinion and Order.

We are filing this letter as such and not as a motion for reconsideration of Your Honor's September 28, 2016, Opinion and Order simply because it would appear that the rules do not contemplate the possibility of seeking reconsideration of a reconsideration. Nevertheless, we would welcome the opportunity to submit additional briefing should Your Honor be inclined to consider it as such.

Respectfully submitted,

**Raiser & Kenniff, P.C.**

A handwritten signature in blue ink that reads "Anthony J. Colleluori Esq." with a stylized flourish at the end.

Anthony J. Colleluori, Esq.  
300 Old Country Rd., Suite 351  
Mineola, NY 11501  
Phone: 516 742-7600  
acolleluori@raiserkenniff.com

*Attorneys For Plaintiff*

cc: Defense Counsel (via ECF)